

The House Special Committee on MARTA offers the following substitute to SB 114:

A BILL TO BE ENTITLED

AN ACT

To amend an Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, so as to establish an operating budget reserve; to implement an independent management audit; to implement an annual report on the status of pensions; to implement an annual report of expenses; to revise the provisions regarding collective bargaining agreements; to provide for binding arbitration of disputes; to extend the sunset of certain provisions relating to use of proceeds of a sales and use tax for the Authority; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, is amended by adding new subsections (d) through (g) at the end of Section 17 to read as follows:

"(d) The Authority on an annual basis shall fund and maintain an operating budget reserve of ten percent (10%) of the Authority's prior year operating budget revenues. For purposes of this section, the term 'operating budget revenues' shall mean all funds received from federal, state, or local sources, including but not limited to grants, distributions from federal and state formula funds, or direct federal and state appropriations for projects or programs of the Authority, as well as farebox revenues and revenues received from rentals on property owned or operated by the Authority. Said operating budget reserve shall be utilized for ongoing operating expenses only in those circumstances requiring its use due to worsened economic conditions in the Atlanta region, which conditions cause a temporary shortfall in the Authority's anticipated revenues. The temporary operating revenue shortfall so noted shall be for a period of not less than five consecutive months during which total anticipated revenues are not less than five percent (5%) below the revenues

1 received during the preceding fiscal year for the same five-month period. The use of said  
2 operating reserve shall be solely for the purpose of operating the Metropolitan Atlanta  
3 Rapid Transit Authority system during such time of economic emergency, and under no  
4 circumstance shall the operating budget reserve be used to permanently replace the  
5 revenues which are reduced due to the economic conditions set forth above. The purpose  
6 of said reserve shall be exclusively to pay the ongoing operating expenses during times of  
7 economic downturn and shall not be considered to be an available recurring revenue for  
8 operating budget purposes. Upon cessation of such economic downturn, as evidenced by  
9 cessation of the revenue shortfall required for the use of the reserve for Authority operating  
10 expenses, the operating budget reserve shall be replenished by ongoing revenues to the  
11 Authority within one fiscal year.

12 (e) The Authority shall cause to be performed an independent annual management audit  
13 on the condition of management of the Authority at the expense of the Authority, and  
14 which management audit shall be submitted to the Board of the Authority, the Governor,  
15 the State Auditor, and the Metropolitan Atlanta Rapid Transit Overview Committee before  
16 December 31 of each year.

17 (f) The Authority shall report to the recipients of the Metropolitan Atlanta Rapid Transit  
18 Authority represented and nonrepresented pension plans on an annual basis the status of  
19 the Metropolitan Atlanta Rapid Transit Authority pension systems. Said report shall  
20 include, at a minimum, the investments made on behalf of recipients of pension benefits  
21 under the systems, by investment, the unfunded liabilities of said systems, and present and  
22 future budgetary obligations necessitated by benefit commitments made by the Authority.  
23 Said report shall be given to each recipient of Metropolitan Atlanta Rapid Transit Authority  
24 pensions under the pension systems of the Authority, the Metropolitan Atlanta Rapid  
25 Transit Overview Committee, and the Governor.

26 (g) The Authority shall submit to the Metropolitan Atlanta Rapid Transit Overview  
27 Committee, the presiding officers of the House and Senate, and the Governor an annual  
28 report which report shall indicate consultant expenses, other professional services, salaries  
29 and expenses of full-time and part-time employees and Board members, and payments  
30 rendered by outside companies or agencies to the Authority for any and all services. Said  
31 report shall be submitted by August 31 of each year. In addition to a printed copy to be  
32 provided to the parties enumerated in this subsection, said report shall be posted in a  
33 prominent location on the Authority's website within two weeks of submittal of the report  
34 to the parties enumerated in this subsection. The report posted on the Authority's website  
35 shall show employee identification numbers and job titles instead of the names of the

employees. The employee's social security number shall not be used as the employee's identification number."

## SECTION 2.

Said Act is further amended by striking Section 20 in its entirety and inserting in lieu thereof a new Section 20 to read as follows:

### "SECTION 20.

#### Rules and Regulations; Miscellaneous.

(a) The Board may promulgate reasonable rules and regulations, not inconsistent with law, for the control and management of its operations, properties, employees, and patrons.

(b)(1) The Board may provide for the recognition of authorized representatives of the employees of the Authority and for collective bargaining with its employees through such agents in the same manner and to the same extent as if they were the employees of any privately owned transportation system.

(2) Upon or prior to the expiration of an existing labor agreement, the Authority and the authorized representative shall collectively bargain in an effort to reach a successor or replacement labor agreement. If, after expiration of an existing labor agreement, the Authority and the authorized representative are then unable to agree upon the terms and conditions of a new labor agreement, including but not limited to the issue of wages, they shall jointly select or, failing their agreement, upon the written petition of either or both parties, the Governor shall appoint within 30 days after receipt of said petition a neutral fact finder to investigate and explore all unresolved collective bargaining issues and to render a report to the Authority, the authorized representative, the Governor, and the public. The neutral fact finder shall conduct such hearings as may be necessary to provide for the full and fair presentation of all unresolved collective bargaining issues by both parties. That fact finder shall be authorized to sign and issue subpoenas for witnesses or documents, to administer oaths, to take oral or written testimony, and to take such other actions as may be needed to make comprehensive findings of fact and recommendations.

(3) The fact finder's report shall recommend as to all unresolved collective bargaining issues submitted for fact finding appropriate wages, hours, and other terms and conditions of employment for represented employees, shall set forth supporting factual findings, and shall contain a summary of the findings. The report of the fact finder shall be issued within 30 days after the fact finder is selected or appointed. Upon issuance, the report

1 shall be distributed by the Authority to the Governor and the Metropolitan Atlanta Rapid  
2 Transit Overview Committee of the Georgia General Assembly. The fact finder shall  
3 cause the summary of findings to be published once in the newspaper having the largest  
4 circulation in the metropolitan area. The fact finder shall be compensated in the same  
5 manner as a special master pursuant to Code Section 22-2-106 of the O.C.G.A., and the  
6 costs thereof and any other costs of the proceeding shall be borne equally by the parties.  
7 After selection or appointment of a fact finder pursuant to this paragraph, the parties may  
8 continue to collectively bargain on any issues, including but not limited to those  
9 submitted for fact finding.

10 (4) Upon issuance of the fact finder's report, the Authority and the authorized  
11 representative shall continue to collectively bargain in light of the recommendations set  
12 forth in such report. If either party rejects any or all of the fact finder's recommendations  
13 and the parties are otherwise unable, through collective bargaining, to reach agreement  
14 on such issue or issues, then each party rejecting any of the fact finder's  
15 recommendations shall prepare a written statement setting forth the specific  
16 recommendations which such party has rejected, the party's counterproposal on the issue  
17 or issues, and the reasons for rejecting the fact finder's recommendations. Prior to the  
18 commencement of any arbitration proceeding as provided in paragraph (5) of this  
19 subsection, each party required under this paragraph to prepare that statement shall cause  
20 it to be published in the local newspaper having the largest circulation in the metropolitan  
21 area and shall concurrently distribute that statement to the Governor and the Metropolitan  
22 Atlanta Rapid Transit Overview Committee of the Georgia General Assembly.

23 (5) If, within the 30 days following issuance of the fact finder's report, the Authority and  
24 the authorized representative are unable to conclude a new labor agreement, the labor  
25 disputes shall then be submitted to binding grievance arbitration. Any labor dispute  
26 between the Authority and the authorized representative of its employees, which involves  
27 the formulation of contract provisions governing wages, hours, and working conditions,  
28 which dispute cannot be settled by collective bargaining, shall be submitted to 'interest  
29 arbitration,' at the request of either party. As used in this subsection, 'grievance  
30 arbitration' shall mean arbitration of a dispute between the Authority and the authorized  
31 representative acting on behalf of an employee which involves the application or  
32 interpretation of the terms and conditions of an existing labor agreement. As used in this  
33 subsection, 'interest arbitration' shall mean arbitration which determines or formulates the  
34 terms and conditions of a labor agreement between the Authority and the authorized  
35 representative, including the formulation of contract provisions governing wages, hours,  
36 and working conditions.

(6) Any neutral arbitrator selected to decide or determine any interest arbitration between the Authority and the authorized representative of any of its employees shall meet the standards established by the American Arbitration Association. The neutral arbitrator shall be bound by the report of the fact finder and any objections filed thereto in making a decision on the issues presented by the Authority and the authorized representative.

(7) No employee of the Authority shall engage in any strike, sit-down, walkout, or other concerted cessation or curtailment of work, and no authorized representative of employees of the Authority shall cause, instigate, encourage, promote, or condone any strike, sit-down, slowdown, walkout, or other concerted cessation or curtailment of work by any employee of the Authority. The Authority shall not increase, decrease, or otherwise change the wages or fringe benefits of employees as of the last day of an expired contract pending the establishment of new wages and fringe benefits by negotiation or arbitration."

### SECTION 3.

Said Act is further amended by striking subsection (i) of Section 25 and inserting in its place the following:

"(i) Use of Proceeds. The proceeds of the tax levied pursuant to this Act shall be used solely by each local government to fulfill the obligations incurred in the contracts entered into with the Metropolitan Atlanta Rapid Transit Authority as contemplated in the Metropolitan Atlanta Rapid Transit Authority Act of 1965, as amended; provided, however, that no more than fifty percent (50%) of the annual proceeds of the tax shall be used to subsidize the operating costs of the system, exclusive of depreciation, amortization, and other costs and charges as provided in this subsection, until January 1, 2002. For the period beginning January 1, 2002, and ending June 30, 2002; and for each fiscal year commencing thereafter until July 1, 2006, and the period beginning July 1, 2006, and ending December 31, 2006 June 30, 2008, no more than fifty-five percent (55%) of the proceeds of the tax shall be used to subsidize the operating costs of the system, exclusive of depreciation, amortization, and other costs and charges as provided in this subsection; and for the period beginning January 1, ~~2007~~ 2008, and ending June 30, ~~2007~~ 2008, and each fiscal year commencing thereafter until July 1, 2032, no more than fifty percent (50%) of the proceeds of the tax shall be used to subsidize the operating costs of the system, exclusive of depreciation, amortization, and other costs and charges as provided in this subsection; except that if the Board of the Metropolitan Atlanta Rapid Transit Authority shall fail to file with the Metropolitan Atlanta Rapid Transit Overview Committee ~~not later than December 31, 2002~~ annually, the original and 14 copies of a report of the findings of a

1 completed management performance audit of the authority's current operations, which  
2 audit was performed under contract with and at the expense of the authority by the Georgia  
3 Regional Transportation Authority pursuant to paragraph (16) of subsection (a) of Code  
4 Section 50-32-11 of the O.C.G.A., along with any auditor's recommendations based  
5 thereon and the auditor's signed written verification that the Metropolitan Atlanta Rapid  
6 Transit Authority fully cooperated with such audit and allowed access to all its books,  
7 records, and documents to the extent the auditor deemed necessary, ~~then for the period~~  
8 ~~beginning January 1, 2003, and ending June 30, 2003, and each fiscal year commencing~~  
9 ~~thereafter until July 1, 2032, no more than fifty percent (50%) of the proceeds of the tax~~  
10 ~~shall be used to subsidize the operating costs of the system, exclusive of depreciation,~~  
11 ~~amortization, and other costs and charges as provided in this subsection. For each fiscal~~  
12 ~~year commencing on or after July 1, 2032, no more than sixty percent (60%) of the annual~~  
13 ~~proceeds of the tax shall be used to subsidize the operating costs of the system, exclusive~~  
14 ~~of depreciation, amortization, and other costs and charges as provided in this subsection;~~  
15 ~~and commencing with July 1, 2032, and for every year thereafter, the proceeds of the tax~~  
16 ~~shall not be used to subsidize operations of the transportation system to an extent greater~~  
17 ~~than fifty percent (50%) of the operating costs of the system, exclusive of depreciation,~~  
18 ~~amortization, and other costs and charges as provided in this subsection. In adopting its~~  
19 ~~annual budget, the Board of the Metropolitan Atlanta Rapid Transit Authority shall be~~  
20 ~~authorized to rely upon estimates of all revenues, operating costs, patronage, and other~~  
21 ~~factors which may affect the amount of the fare required to limit the operating subsidy~~  
22 ~~herein provided for. If the results of any year's operations reflect that the proceeds of the~~  
23 ~~tax were used to subsidize operations to an extent greater than herein provided, the Board~~  
24 ~~shall adjust fares in order to make up the deficit in operations during a period of not to~~  
25 ~~exceed three (3) succeeding years. If the results of operations in the Authority's fiscal year~~  
26 ~~commencing July 1, 1980, or in any subsequent fiscal year reflect that the proceeds of the~~  
27 ~~tax were not used to subsidize operations to the maximum extent herein provided, the~~  
28 ~~Board may, in its sole discretion, shall~~ reserve any amounts that could have been used to  
29 subsidize operations in that fiscal year and later use said reserved amounts and any interest  
30 earned on said reserved amounts to provide an additional subsidy for operations in any  
31 future fiscal year or years. The words 'operating costs of the system' for purposes of this  
32 subsection 25(i) are defined to include all of the costs of that division of the Authority  
33 directly involved ~~and that portion of the nonoperating administrative costs of those~~  
34 ~~divisions of the Authority indirectly involved,~~ through the provision of support services,  
35 in providing mass transportation services for the metropolitan area, but exclusive of the  
36 costs of the division or divisions directly involved and that portion of the nonoperating

1 administrative costs of those divisions indirectly involved, in the planning, design,  
2 acquisition, construction, and improvement of the rapid transit system, according to  
3 accepted principles of accounting, and also exclusive of the following costs:

4 (1) Nonrecurring costs and charges incurred in order to comply with any statute or  
5 regulation concerning either the protection or cleaning up of the environment, or  
6 accessibility by handicapped or disabled persons, or occupational health or safety, or  
7 compliance with any national or state emergencies, or with any judgment, decree, or order  
8 of any court or regulatory agency in implementation of any such statute or regulation; and

9 (2) In the case of leases of equipment or facilities that, according to generally accepted  
10 principles of accounting, would not be classified as capital leases, payments of rent, and  
11 other payments for the property subject to such leases or for the use thereof; provided that  
12 any costs for regular maintenance or repair of such equipment or facilities shall not be  
13 excluded.

14 If any proceeds of the tax levied pursuant to this Act are held for the purpose of planning,  
15 designing, acquiring, or constructing additional facilities or equipment for or improvements  
16 to the rapid transit system and are invested, then all interest earned from such investments  
17 shall be used only for such purposes or for paying the principal of or interest on bonds or  
18 certificates issued for such purposes. Commencing July 1, 1988, and until June 30, ~~2006~~,  
19 2008, and only if expressly authorized by the board, interest earned on reserve funds set  
20 aside for rebuilding, repairing, or renovating facilities of the rapid transit system; for  
21 replacing, repairing, or renovating equipment or other capital assets thereof; or from the  
22 sale or other disposition of real property, may, without regard to the original source of the  
23 funds so reserved, be used to pay the operating costs of the system as such costs are defined  
24 in this subsection."

#### 25 SECTION 4.

26 This Act shall become effective upon its approval by the Governor or upon its becoming law  
27 without such approval.

#### 28 SECTION 5.

29 All laws and parts of laws in conflict with this Act are repealed.